

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE MONTANA SCHOOL MARSHAL PROGRAM;
5 PROVIDING QUALIFICATIONS TO BE APPOINTED AS A SCHOOL MARSHAL; PROVIDING SCHOOL
6 MARSHAL DUTIES; PROVIDING DUTIES FOR SCHOOL DISTRICT BOARDS OF TRUSTEES; REQUIRING
7 NOTIFICATION TO LAW ENFORCEMENT; ALLOWING THE SCHOOL DISTRICT TO PAY FOR CERTAIN
8 COSTS; EXEMPTING SCHOOL MARSHALS FROM CERTAIN CONCEALED CARRY PROHIBITIONS;
9 AMENDING SECTIONS 45-8-328 AND 45-8-361, MCA; AND PROVIDING AN EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 NEW SECTION. **Section 1. School marshal program -- qualifications.** (1) The board of trustees
14 may appoint an independent contractor or a school district employee to be certified as a school marshal. The
15 appointed employee must be a full-time employee of the district.

16 (2) A school marshal may be:

17 (a) employed full-time as a school marshal; or

18 (b) retained on a full-time or part-time basis and may have other assigned duties in the discretion of
19 the board of trustees.

20 (3) To be eligible to serve as a school marshal, the independent contractor or school district employee
21 must:

22 (a) have a permit to carry a concealed weapon pursuant to 45-8-321;

23 (b) meet the qualifications required for peace officers pursuant to 7-32-303; and

24 (c) be an active or retired peace officer as defined in 46-1-202(17).

25 (4) If an applicant for a school marshal position is an active or retired public safety officer from
26 another state, the applicant must be certified by the Montana public safety officer standards and training
27 council.

28 (5) For the purposes of [sections 1 through 4], the following definitions apply:

1 (a) "Montana public safety officer standards and training council" means the council established in 2-
2 15-2029.

3 (b) "Public school property" has the meaning provided in 20-1-220.

4 (c) "School marshal" means a person who is appointed by the board of trustees and employed or
5 retained by a school district to protect the health and safety of persons and to maintain order on public school
6 property.

7
8 **NEW SECTION. Section 2. School marshal duties and responsibilities.** (1) A school marshal may
9 act only as necessary to prevent or stop the commission of an offense that threatens serious bodily injury or
10 death of persons on public school property.

11 (2) Pursuant to 45-8-361, with the consent of the trustees, a school marshal may possess, carry, and
12 store a firearm on public school property.

13 (3) The trustees shall adopt a policy describing the school marshal's duties and responsibilities. The
14 policy must:

15 (a) provide procedures for how a school marshal may possess, carry, and store a firearm on public
16 school property as authorized pursuant to 45-8-361 and subsection (2) of this section;

17 (b) provide alternate procedures regarding the possession, carrying, and storage of a firearm by a
18 school marshal based on the amount of time the school marshal has regular, direct contact with students;

19 (c) specify the types of firearms, ammunition, and other related equipment that a school marshal is
20 authorized to possess, carry, and store on public school property; and

21 (d) specify requirements regarding the subject matter and frequency of additional professional
22 development and training.

23

24 **NEW SECTION. Section 3. School marshal program -- trustees' duties.** (1) To implement a
25 school marshal program, the trustees shall:

26 (a) ensure that a school district employee who is appointed as a school marshal satisfies the
27 qualifications required under [section 1]; and

28 (b) adopt a written school marshal program policy as required under [section 2(3)].

1 (2) A school marshal is not entitled to retirement benefits normally provided by the state to a peace
2 officer.

3 (3) An individual's status as a school marshal ends if:

4 (a) the individual's license to carry a concealed weapon is suspended or revoked;

5 (b) the school marshal is an employee of the school district and the employee's employment with the
6 school district ends; or

7 (c) the board of trustees sends written notice to the individual that the individual's services as a school
8 marshal are no longer required.

9

10 **NEW SECTION. Section 4. Law enforcement notification.** The trustees shall submit the school
11 marshal's name, date of birth, and address of the school marshal's place of employment to:

12 (1) the Montana public safety officer standards and training council; and

13 (2) all applicable law enforcement agencies with jurisdiction and emergency response authority in the
14 school district, including:

15 (a) the chief law enforcement officer of the local municipal law enforcement agency, if the school
16 district is located within a municipality;

17 (b) the sheriff of a county where a school district is located; and

18 (c) in the case of a district located within the boundaries of a reservation, the chief tribal law
19 enforcement officer and area federal law enforcement authorities.

20

21 **Section 5.** Section 45-8-328, MCA, is amended to read:

22 **"45-8-328. Carrying concealed weapon in prohibited place -- penalty.** (1) Except for legislative
23 security officers authorized to carry a concealed weapon in the state capitol as provided in 45-8-317(1)(k) or a
24 person contracted or employed as a school marshal as provided in [sections 1 through 4], a person commits
25 the offense of carrying a concealed weapon in a prohibited place if the person purposely or knowingly carries a
26 concealed weapon in:

27 (a) portions of a building used for state or local government offices and related areas in the building
28 that have been restricted;

1 (b) a bank, credit union, savings and loan institution, or similar institution during the institution's
2 normal business hours. It is not an offense under this section to carry a concealed weapon while:

3 (i) using an institution's drive-up window, automatic teller machine, or unstaffed night depository; or

4 (ii) at or near a branch office of an institution in a mall, grocery store, or other place unless the person
5 is inside the enclosure used for the institution's financial services or is using the institution's financial services.

6 (c) a room in which alcoholic beverages are sold, dispensed, and consumed under a license issued
7 under Title 16 for the sale of alcoholic beverages for consumption on the premises.

8 (2) It is not a defense that the person had a valid permit to carry a concealed weapon. A person
9 convicted of the offense shall be imprisoned in the county jail for a term not to exceed 6 months or fined an
10 amount not to exceed \$500, or both."
11

12 **Section 6.** Section 45-8-361, MCA, is amended to read:

13 **"45-8-361. Possession or allowing possession of weapon in school building -- exceptions --**
14 **penalties -- seizure and forfeiture or return authorized -- definitions.** (1) A person commits the offense of
15 possession of a weapon in a school building if the person purposely and knowingly possesses, carries, or
16 stores a weapon in a school building.

17 (2) A parent or guardian of a minor commits the offense of allowing possession of a weapon in a
18 school building if the parent or guardian purposely and knowingly permits the minor to possess, carry, or store a
19 weapon in a school building.

20 (3) (a) Subsection (1) does not apply to law enforcement personnel or to a school marshal in the
21 school district where the school marshal is contracted or employed.

22 (b) The trustees of a district may grant persons and entities advance permission to possess, carry, or
23 store a weapon in a school building.

24 (4) (a) A person convicted under this section shall be fined an amount not to exceed \$500,
25 imprisoned in the county jail for a term not to exceed 6 months, or both. The court shall consider alternatives to
26 incarceration that are available in the community.

27 (b) (i) A weapon in violation of this section may be seized and, upon conviction of the person
28 possessing or permitting possession of the weapon, may be forfeited to the state or returned to the lawful

1 owner.

2 (ii) If a weapon seized under the provisions of this section is subsequently determined to have been
3 stolen or otherwise taken from the owner's possession without permission, the weapon must be returned to the
4 lawful owner.

5 (5) As used in this section:

6 (a) "school building" means all buildings owned or leased by a local school district that are used for
7 instruction or for student activities. The term does not include a home school provided for in 20-5-109.

8 (b) "weapon" means any type of firearm, a knife with a blade 4 or more inches in length, a sword, a
9 straight razor, a throwing star, nun-chucks, or brass or other metal knuckles. The term also includes any other
10 article or instrument possessed with the purpose to commit a criminal offense."
11

12 NEW SECTION. **Section 7. Codification instruction.** [Sections 1 through 4] are intended to be
13 codified as an integral part of Title 20, chapter 7, part 13, and the provisions of Title 20, chapter 7, part 13,
14 apply to [sections 1 through 4].
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16 NEW SECTION. **Section 8. Effective date.** [This act] is effective July 1, 2021.

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